

SUSSEX CENTRAL HIGH SCHOOL

2000/096.02

00900 - SUPPLEMENTARY CONDITIONS OF THE CONTRACT FOR CONSTRUCTION

The following supplements are additional general conditions of the contract and may modify, change, delete, or add to AIA Document A201/CMA "General Conditions of the Contract for Construction", 1992 Edition.

The Table of Articles is provided as a guide and is superseded by actual modifications and addenda.

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Article 15	Preference for Delaware Labor
Article 16	License and Tax Requirements
Article 17	Prevailing Delaware Wage Rates

PARAGRAPH 1.2 EXECUTION, CORRELATION AND INTENT

Add the following Paragraphs as set forth below:

- 1.2.6 The Drawings are generally diagrammatic and indicative of the work to be installed. Exact locations of equipment and points of termination shall be approved by the Architect. Should it be found that any system or equipment cannot be installed as shown on the Drawings, the Architect shall be consulted before installing or making changes to layout.
- 1.2.7 The Drawings and Specifications are intended to function as a common set of documents. Anything shown on the Drawings but not in the Specifications, or mentioned in the Specifications and not shown on the Drawings, shall be equally binding as if both noted on the Drawings and called for in the Specifications.
- 1.2.8 No measurement of a Drawing by scale shall be used as a working dimension. Working measurements shall be taken from figured dimensions.
- 1.2.9 All Contractors shall carefully examine the Drawings and Specifications. If any discrepancies occur between the Drawings or between the Drawings and Specifications, he shall report such discrepancies to the Construction Manager and Architect in writing and obtain written instructions as to the manner in which to proceed. No departures from the Contract Documents shall be made without prior written approval of the Architect.
- 1.2.10 Any discrepancies shall be reported at least ten (10) days prior to submission of bid. In the event that such discrepancies are not reported and a difference in quantity or quality is concerned, then, the Architect will make the selection, based on his sole judgement. No

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additional compensation or extension of time will be allowed.

- 1.2.11 Where a device or piece of equipment is referred to in the singular number, such reference shall be deemed to apply to as many devices as are required to complete the installation.
- 1.2.12 Provide such work and materials as may be necessary for proper and suitable base or support for work shown or specified, whether or not specifically mentioned in specifications or indicated on the drawings.
- 1.2.13 Where reference is made to publication, tests, and standard specifications, manufacturers' direction or literature, the latest edition published before dated of specifications shall apply, except as otherwise specified. Such items shall be incorporated with full force and effect as though printed in full.
- 1.2.14 It is the purpose of these documents to provide the best possible installation of each material and item of equipment utilizing the best installation materials, methods and workmanship obtainable to achieve the result desired.
- 1.2.15 Abbreviations and symbols used on or in the Contract Documents have the normal meanings in standard use by architect and engineers in the United States. If there are any questions regarding the meaning of any abbreviations or symbol, they should be brought to the attention of the Architect during the Bidding Phase.

PARAGRAPH 1.3 OWNERSHIP AND USE OF DOCUMENTS

Add Subparagraph 1.3.2 as set forth below:

- 1.3.2 Contractor with whom the Owner shall enter into a Contract shall be entitled to receive without charge up to five (5) sets of Contract Documents. The Contractor will pay for shipping and handling. Additional sets of the Contract Documents or any parts thereof will be furnished at the cost of reproduction, postage and handling.

PARAGRAPH 2.1 DEFINITION

Delete Subparagraph 2.1.2 in its entirety.

PARAGRAPH 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

Delete Subparagraph 2.2.1 in its entirety.

Modify Subparagraph 2.2.2 as follows:

The Owner shall not be responsible for furnishing surveys or other information as to the physical characteristics of the Project site or utility locations for the Project site. Contractor shall confirm the location of each utility. The Contractor shall have no claims for surface or subsurface conditions, whether unforeseen, foreseen or foreseeable. The Contractor shall exercise special care in executing subsurface work in proximity of subsurface utilities, improvements and easements.

After Paragraph 2.2.2 ADD the following:

The Site Plan establishes lot lines, restrictions and a permanent bench mark. All other

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grades, lines, levels and bench marks shall be established and maintained by the Contractor.

The Contractor shall verify the location of all utilities before starting work, which shall include contacting "Miss Utility" at local utility companies.

Modify Subparagraph 2.2.4 as follows:

Delete the word "Information" at the beginning of Subparagraph 2.2.4 and substitute in lieu thereof "Upon receipt of a written request from Contractor, information..."

PARAGRAPH 2.3 OWNER'S RIGHT TO STOP THE WORK

Modify Subparagraph 2.3.1 as follows:

Delete the word "persistently" in the first sentence of Subparagraph 2.3.1.

PARAGRAPH 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

Modify Subparagraph 2.4.1 as follows:

Delete the first two sentences of Subparagraph 2.4.1 and substitute the following in lieu thereof:

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, commence and continue to carry out the Work.

PARAGRAPH 2.5 ADDITIONAL RIGHTS

Add new Paragraph 2.5.1 as follows:

- 2.5.1 Owner's rights set forth in subparagraphs 2.3.1 and 2.4.1 shall be in addition to and not in limitation of any other rights of the Owner granted in the Contract Documents or at law or in equity.

PARAGRAPH 3.1 DEFINITION

Add the following sentence to Subparagraph 3.1.1

- 3.1.1 "This definition applies to each Contractor having an agreement with the Owner."

PARAGRAPH 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

Modify Subparagraph 3.2.1 as follows:

Contractor warrants that it has carefully studied and reviewed the Contract Documents and that it has reported any errors, inconsistencies or omissions to the Construction

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Manager or Architect. The Contractor hereby acknowledges and declares that to its knowledge the Contract Documents are full and complete, are sufficient to have enabled it to determine the cost of the Work and to fulfill all of its obligations under the Contract Documents. If the Contractor encounters an inconsistency in the construction

documents, he shall immediately submit it to the Construction Manager and Architect for resolution, said resolution to be based on functional requirements. In addition, if the Contractor performs any construction activity knowing or having reason to know that it involves a recognized error, inconsistency or omission in the Contract Documents, the Contractor shall be responsible for such performance and shall bear the costs for correction.

PARAGRAPH 3.3. SUPERVISION AND CONSTRUCTION PROCEDURES

Add Subparagraph 3.3.5 as set forth below:

- 3.3.5 Measurements - Before ordering any material or doing any work, the Contractor shall verify all measurements and shall be responsible for the correctness of same. No extra charge or compensation will be allowed on account of difference between actual dimensions and the measurements indicated on the drawings; any difference which may be found shall be submitted to the Architect for consideration before proceeding with the work.

Add the following provision as a new Subparagraph 3.3.6:

- 3.3.6 In any of the Work is required to be inspected or approved by any public authority, the Contractor shall cause such inspection or approval to be performed. No inspection performed or failed to be performed shall be a waiver of any of the Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.

PARAGRAPH 3.4 LABOR AND MATERIALS

Add the following sentence to Subparagraph 3.4.1

- 3.4.1 Refer to Division 1 for detailed requirements concerning Temporary Facilities and Equipment.

Add Subparagraph 3.4.1.1 as set forth below:

- 3.4.1.1 Contractor is required to pay and is to require any subcontractor to pay each employee engaged on the Project not less than the hourly rates prescribed in the Prevailing Wages for Building Construction issued by the Department of Labor of the State of Delaware, as included in the contract documents.

ADD new Paragraph 3.4.3 as follows:

- 3.4.3 Upon request, the Contractor shall remove or have removed from the job site any person considered obnoxious, incompetent or unqualified by the Owner or Architect.

ADD new Paragraph 3.4.4 as follows:

- 3.4.4 The Contractor shall provide all necessary and sufficient supervision over the work being

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performed and shall be held solely responsible for the conduct and performance of all persons performing work under this contract. All contact with students should be avoided whenever possible.

PARAGRAPH 3.6 TAXES

ADD new Paragraph 3.6.2 as follows:

- 3.6.2 Each Contractor and subcontractor shall be licensed to do business in the State of Delaware and Sussex County and shall pay all fees and taxes due under State and County laws. The Contractor, before the payment of any award or amount payable to any contractor or subcontractor not a resident of Delaware shall ascertain from said non-resident contractor or subcontractor the amount of said license liability and shall pay same to the State Tax-Department within ten (10) days after final payment and settlement with the non-resident contractor or subcontractor.

PARAGRAPH 3.7 PERMITS, FEES AND NOTICES

Add the following to Paragraph 3.7.2:

Without limiting the generality of the foregoing, Contractor shall comply with all governmental requirements applicable to the Work, including without limitation those included in Specification Section 01060 - Regulatory Requirements.

ADD new Paragraph 3.7.5 as follows:

- 3.7.5 Where the local law at the site of the building requires a Certificate of Occupancy, the Construction Manager shall obtain and pay for this Certificate through the Owner and deliver it to the Owner.

ADD new Paragraph 3.7.6 as follows:

- 3.7.6 The general building permit for all components of the entire project will be obtained from the applicable authority and paid for by the Owner through the Construction Manager.

PARAGRAPH 3.8 ALLOWANCES

Delete Subparagraph 3.8.1 and 3.8.2 in their entirety.

PARAGRAPH 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

ADD new Paragraph 3.12.12

- 3.12.12 Refer to Section 01330, SUBMITTAL PROCEDURES, for detailed requirements.

PARAGRAPH 3.18 INDEMNIFICATION

Add the following sentence to Subparagraph 3.18.1:

The Contractor shall indemnify and hold harmless the Owner against any assertion of claims for mechanics' liens by Subcontractors, Sub-subcontractors or material suppliers

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and against any assertion of security interests by suppliers of goods or materials.

PARAGRAPH 4.1 ARCHITECT

ADD new Paragraph 4.1.2 as follows:

4.1.2 The Architect will have no full-time project representative on this project.

PARAGRAPH 4.2 CONSTRUCTION MANAGER

Modify Subparagraph 4.4 as set forth below:

4.4 In case of termination of the employment of the Architect and/or Construction Manager, the Owner shall appoint another Architect or Construction Manager whose status under the Contract Documents shall be that of the former Architect or Construction Manager.

Modify Subparagraph 4.5 as set forth below:

4.5 Replace the word "arbitration" with "litigation".

PARAGRAPH 4.7 CLAIMS AND DISPUTES

Modify Subparagraph 4.7.2 as set forth below:

4.7.2 Delete the phrases "arbitration or", which appears twice, and add "litigation".

Modify Subparagraph 4.7.4 as set forth below:

4.7.4 Replace the word "arbitration" with "litigation".

Modify Subparagraph 4.7.6 as follows:

4.7.6 If there are any occurrences, or if the Contractor encounters conditions, which the Contractor believes entitle it to an adjustment in the Contract Sum or Contract Time, then the Contractor shall immediately (and not later than seven days after becoming aware of such occurrences or conditions) give notice thereof to the Architect. The Architect shall promptly investigate such occurrences or conditions and make a recommendation. Claims by the Owner or Contractor in opposition to the Architect's recommendation must be made within 21 days after the Architect has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 4.8.

PARAGRAPH 4.8 RESOLUTION OF CLAIMS AND DISPUTES

Modify Subparagraph 4.8.4 as follows:

4.8.4 Replace the word "arbitration" with "litigation".

PARAGRAPH 4.9 ARBITRATION

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Delete Paragraph 4.9 "Arbitration" in its entirety.

PARAGRAPH 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

Delete Subparagraph 5.2.3 in its entirety.

ADD new Paragraph 5.2.5 as follows:

- 5.2.5 Delaware State law provisions concerning naming and use of Subcontractors supersede any foregoing provisions of Paragraph 5.2 where such provisions are in conflict with Delaware State Law. Refer to provisions in Section 00100 INSTRUCTIONS TO BIDDERS.

PARAGRAPH 5.3 SUBCONTRACTUAL RELATIONS

Add the following provision as a new Subparagraph:

- 5.3.2 Notwithstanding any provision of Subparagraph 5.3.1, any part of the Work performed for the Contractor by a Subcontractor or its Sub-subcontractor shall be pursuant to a written Subcontract between the Contractor and such Subcontractor (or the Subcontractor and its Sub-subcontractor at any tier), which shall be prepared on a form of subcontract satisfactory to the Owner in all respects. Each such subcontract shall contain provisions that:
- .1 require that such Work be performed in accordance with the requirements of the Contract Documents;
 - .2 waive all rights the contracting parties may have against one another, or that the Subcontractor may have against the Owner, for damages caused by fire or other perils covered by the insurance described in the Contract Documents;
 - .3 require the Subcontractor to carry and maintain insurance coverage in accordance with the Contract Documents, and to file certificates of such coverage with the Contractor;
 - .4 require the Subcontractor to submit certificates and waivers of liens for work completed by it and by its Sub-subcontractors as a condition to the disbursement of the progress payment next due and owing;
 - .5 require submission to Contractor or Subcontractor, as the case may be, of Applications for Payment in a form approved by the Owner, together with clearly defined invoices and billings supporting all such applications under each subcontract to which the Contractor is a party;
 - .6 report, so far as practicable, unit prices and any other feasible formula for use in the determination of costs of changes in the Work;
 - .7 require each Subcontractor to furnish to the Contractor in a timely fashion all information necessary for the preparation and submission of the reports required herein;
 - .8 require that each Subcontractor continue to perform under its subcontract in the

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event the Contract is terminated and the Owner shall take an assignment of said subcontract and request such Subcontractor to continue such performance; and

.9 require each Subcontractor to remove all debris created by its activities.

PARAGRAPH 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTORS

Delete Subparagraph 5.4.2 in its entirety.

PARAGRAPH 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION WITH OWN FORCES AND TO AWARD OTHER CONTRACTS

ADD new Paragraph 6.1.4 as follows:

6.1.4 Refer to Section 01010, SUMMARY OF WORK, for detailed requirements.

PARAGRAPH 6.2 MUTUAL RESPONSIBILITY

Add Subparagraph 6.2.7 as set forth below:

6.2.7 Should the Contractor wrongfully cause damage to the work or property of any separate contractor, the Contractor shall upon due notice, promptly attempt to settle with such other contractor by agreement, or otherwise to resolve the dispute. If such separate contractor sues or initiates an arbitration proceeding against the Owner, Architect and Construction Manager on account of any damage alleged to have been caused by the Contractor, the Owner, Architect and Construction Manager shall notify the Contractor who shall defend such proceedings at the Contractor's expense, and if any judgment or award against the Owner, Architect and Construction Manager arises therefrom the Contractor shall pay or satisfy it and shall reimburse the Owner, Architect and Construction Manager for all attorneys' fees, court or arbitration costs which the Owner, Architect and Construction Manager has incurred.

PARAGRAPH 7.1 CHANGES

Add the following sentence to Subparagraph 7.1.2:

Change orders are valid only if authorized in writing. Payment condition to include final Owner signature requirement.

PARAGRAPH 7.2 CHANGE ORDERS

Modify Subparagraph 7.2.2 as set forth below:

7.2.2 The method for determining adjustments to the Contract Sum shall be in accordance with Paragraph 7.3. It will be the Contractor's responsibility to provide complete breakdown of the labor and materials and subcontractor's cost spent on Change Orders or Construction Change Directives. Work done on an hourly basis shall have the labor hours performed each day initialed by the Contractor and the Construction Manager.

ADD new Paragraph 7.2.3 as follows:

7.2.3 See Section 01153, CHANGE ORDER PROCEDURES, for detailed requirements.

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PARAGRAPH 7.3 CONSTRUCTION CHANGE DIRECTIVES

Add Subparagraph 7.3.6.1.1 as set forth below:

- 7.3.6.1.1 Labor: (As specified in Section 7.3.6.1) Labor costs will include the certified Base Prevailing Wage Rate, plus 30% mark-up for employer's costs of health, welfare, pension and other benefits, FICA, SUTA, FUTA and Workmen's Compensation. No costs beyond those listed will be considered. Total labor cost shall be this cost times a mark-up of 10% for overhead and profit. This mark-up includes all overhead, including supervisory personnel, estimators, staff, office time, etc.

Modify Subparagraph 7.3.6.4 as set forth below:

- 7.3.6.4 Bonds and insurance costs will be submitted without mark up.

Modify Subparagraph 7.3.6.6 as set forth below:

- 7.3.6.6 In Subparagraph 7.3.6, the allowance for overhead and profit, included in the total cost to the Owner, shall be based on the following schedule:
- .1 for the Contractor, for any Work performed by the Contractor's own forces, 10% of the cost;
 - .2 for the Contractor, for any Work performed by its Subcontractor, 5% of the amount due the Subcontractor;
 - .3 for each Subcontractor or sub-Subcontractor involved, for any Work performed by that Contractor's own forces, 10% of the cost
 - .4 for each Subcontractor, for any Work performed by its sub-Subcontractor, 5% for the amount due the sub-Subcontractor;

PARAGRAPH 8.2 PROGRESS AND COMPLETION

Delete subparagraph 8.2.3 in its entirety and substitute the following:

- 8.2.3 Refer to Section 01010 SUMMARY OF WORK and Section 01305, CONSTRUCTION SCHEDULES, for detailed requirements.

Work shall commence immediately upon the Contractors receipt of a letter of intent from the Construction Manager.

The Contractor guarantees and warrants that there will be sufficient tradesmen on the job each day to ensure that there will be no interruption of work. If the Construction Manager in his sole discretion decides that the work and the progress of the job has been impeded because of the Contractor's inability to supply tradesmen for the job, the Construction Manager may terminate the contract with forty-eight (48) hours notice.

PARAGRAPH 8.3 DELAYS AND EXTENSIONS OF TIME

Modify Subparagraph 8.3.1 through 8.3.3 as follows:

- 8.3.1 Delete "arbitration", line 8, and add "litigation".

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- 8.3.2 Add: "The Contractor recognizes that delays, acceleration or hindrances may occur. No claims for increased cost, charges, expenses or damages of any kind, shall be made by the Contractor against the Owner or Construction Manager for any delays, acceleration or hindrances from any cause whatsoever, including, but not limited to, strikes, walkouts, extended overhead, winter protection or work stoppages during the progress of any portion of the Work; provided, that the Owner, in its discretion, may compensate the Contractor for such delays, acceleration or hindrances by extending the time for completion of the Work as provided in the Contract Documents and any such extension shall constitute the sole and exclusive remedy between the Owner and the Contractor. All claims for extension of time for delays, acceleration or hindrances shall be made, in writing, to the Architect and Owner no more than seven (7) calendar days after the occurrence of the delay, acceleration or hindrance. The written request for an extension of time shall be a condition precedent to the Contractor's right to claim an extension of time."
- 8.3.3 Delete in its entirety and add: "Extensions of time shall be the sole recourse for delays and shall not act as an entitlement for damages due and owing the Contractor for said damages."

PARAGRAPH 9.2 SCHEDULE OF VALUES

Add Subparagraph 9.2.2 as set forth below:

- 9.2.2 The schedule of values shall be prepared in such a manner that each major item of Work and each subcontracted item of Work is shown as a line item on AIA Document G703, CMA Application and Certificate for Payment, Continuation Sheet. Each major item of work shall be further broken down into separate line items for labor, materials, phase, building wing, floor level, or other as the Construction Manager and Architect may require.
- 9.2.3 The Schedule of Values shall be prepared based upon the itemization of the Contract Sum Breakdown as defined in Specification Section 01040 Contract Sum Breakdown.

Add Subparagraph 9.3.4 as set forth below:

- 9.3.4 The Contractor warrants and certifies with the submission of each Application for Payment that he has or will supply the Owner, through the Construction Manager, Wage Certifications that comply with the Secretary of Labor and Industry's requirements. The Contractor is to substantiate that all Wage Certificates have been received from all subcontractors. Failure to submit Wage Certificates will be deemed reason to withhold all or part of the Application for Payment and place the Contractor in default of the Contract. The Contractor or the Contractor's subcontractor, who for any reason fails to provide Wage Certification or who is found through the Department of Labor and Industry to be in non-compliance, will be considered in default of the Contract.

ADD new Paragraph 9.3.5 as follows:

- 9.3.5 The Owner will retain five percent (5%) of all amounts due the Contractor on account of Progress Payment.

PARAGRAPH 9.4 CERTIFICATES FOR PAYMENT

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Add Subparagraph 9.4.4 as set forth below:

- 9.4.4 The Contractor will be paid by the Owner once each month upon receipt of the Certificate for Payment covering the value of labor and material incorporated in the work. Payment for materials stored off-site will be authorized upon receipt and verification of the following information. Requests for payment for such materials must be accompanied by a Security Agreement Form (to be provided by the Construction Manager) and a Certificate of Insurance for the storage facility. All fees relative to the execution of these documents are the responsibility of the Contractor. The materials will not be used for other projects.

Add Subparagraph 9.4.5 as set forth below:

- 9.4.5 The Contractor is to submit Certificate for Payment in such time as to meet the review and approval schedules of the Owner. Applications that are submitted late and do not meet the approval schedule will be processed the following month.

PARAGRAPH 9.7 FAILURE OF PAYMENT

Add Subparagraph 9.7.2 as set forth below:

- 9.7.2 The Contractor shall not stop work or terminate the Contract if the Construction Manager or Architect should refuse to issue any certificate for payment pursuant to the provisions of Paragraph 9.3, 9.4, 9.5 and 9.6 of the General and/or Supplementary Conditions.

PARAGRAPH 9.8 SUBSTANTIAL COMPLETION

Add Subparagraph 9.8.2.1 as set forth below:

- 9.8.2.1 It is the Contractor's responsibility to prepare and complete the comprehensive lists (punch-lists) in order to submit for Substantial Completion. If after the list is submitted and upon inspection, it is found to be incomplete, lengthy or ill prepared, the Substantial Completion request will be denied. If it is required, because of the Contractor's inability to complete the punch list and, therefore, complete the Contract, that the Architect, and Construction Manager or any of its consultants or representatives, is required to prepare punch lists, then according to 12.2.1, the Contractor will be responsible for such costs.

The Architect and Construction Manager will be compensated for such additional work at standard prevailing rates by the Owner. The Owner will duly backcharge the Contractor for such additional costs and deduct same from retainage or Application for Payment.

PARAGRAPH 9.10 FINAL COMPLETION AND FINAL PAYMENT

Modify Subparagraph 9.10.3 as follows:

- 9.10.3 Delete the last sentence in Subparagraph 9.10.3.

Add Subparagraph 9.10.5 as set forth below:

- 9.10.5 Except as provided under Subparagraph 9.5.1 of the General Conditions relating to retainage, if the Work is completed the Architect shall issue a certificate of completion and a final certificate for payment and the Owner shall make payment in full within 45

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days thereafter.

PARAGRAPH 10.1 SAFETY PRECAUTIONS AND PROGRAMS

Modify Subparagraph 10.1.2 as set forth below:

- 10.1.2 Delete the last two lines and add "determination by the Architect on which litigation has not been pursued or by litigation as provided in Article 4."

Add Subparagraph 10.1.5 as set forth below:

- 10.1.5 Asbestos - If any asbestos or material that is believed to be asbestos is found, then the Contractor should, at once, notify the Owner and the Owner will take the necessary measures to have the material tested and/or removed as is appropriate to the condition. Removal or identification of asbestos materials will be the responsibility of an Owner's outside agent.

PARAGRAPH 11.1 CONTRACTORS' LIABILITY INSURANCE

Modify Subparagraph 11.1.1 as set forth below:

- 11.1.1 In the first line following the word "maintain" insert the words "in a company or companies licensed to do business in the state of Delaware....".

Delete Subparagraph 11.1.2 entirely and insert the following:

- 11.1.2 "The insurance required by subparagraph 11.1.1 shall be written for not less than the following or as required by law, whichever is greater.

A. General Liability Insurance Scope of Coverage

1. Comprehensive Liability Form

- a. Premises - Operations
- b. Products/Completed Operations Hazard
- c. Contractual Insurance
- d. Broad Form Property Damage
- e. Independent Contractors
- f. Personal Injury

Limits of Liability for the above:

- 1. Bodily Injury and Property Damage Combined
\$1,000,000 (Per Occurrence)
\$2,000,000 (Aggregate)

B. Automobile Liability Insurance Scope of Coverage

1. Comprehensive Liability Form

Limits of Liability for the above:

- 1. Bodily Injury & Property Damage Combined -

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\$1,000,000 (per occurrence)

C. Excess Liability Insurance Scope of Coverage

1. Umbrella Comprehensive Liability Form

Limits of Liability for the above:

1. Bodily Injury and Property Damage (Combined)
\$1,000,000 (per occurrence and aggregate)
2. Pre-Cast, Mechanical, Electrical, Excavator and
Elevators
\$2,000,000 combined (Per Occurrence and Aggregate)

D. Workers Compensation and Employers Liability Insurance Statutory
Requirements in State of Delaware.

E. Other Insurance

Contractor shall carry any necessary insurance required to cover Owner
and Rental Equipment that may be necessary for him to use in the
performance of his contract.

Modify Subparagraph 11.1.3 as follows:

- 11.1.3 "Certificates called for herein shall be furnished to the Construction Manager in duplicate simultaneously with the delivery of the executed Owner-Contractor agreement, and shall specifically set forth evidence of all coverage required by 11.1.1 and 11.1.2. The Contractor shall also furnish to the Construction Manager copies of all endorsements that are subsequently issued amending coverage or limits."

Add Subparagraph 11.1.4 as set forth below:

- 11.1.4 All Contractor's Liability Insurance providers must be licensed and authorized to conduct business in Delaware. The insurance carriers of whom the Contractor has purchased insurance coverage are to have an "A-" or better rating plus a financial rating of VI or better with the A.M. Best's Company Key Rating guide - Latest Edition.

Add Subparagraph 11.1.5 as set forth below:

- 11.1.5 Whenever the Contractor is required under these Contract Documents to furnish insurance coverage, all policies of insurance so furnished shall be issued by an insurance company or by insurance companies qualified to do business in the State of Delaware.

PARAGRAPH 11.3 PROPERTY INSURANCE

Delete Subparagraphs 11.3.1 through 11.3.8 in their entirety and substitute the following:

- 11.3.1 Unless otherwise provided, the Owner, through the Project Manager, shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interests of the Owner, the Architect, the Construction Manager, the Contractor, Subcontractors and subcontractors in the Work,

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and shall insure against the perils of fire and extended coverage and shall include "all risk" insurance for physical loss or damage including, without duplication of coverage, theft, vandalism and malicious mischief. If not covered under the all risk insurance or otherwise provided in the Contract Documents, the Contractor shall effect and maintain similar property insurance on portions of the Work stored off the site or in transit when such portions of the Work are to be included in an Invoice for Payment under Subparagraph 9.3.2.

- 11.3.2 The Owner, through the Construction Manager, shall purchase and maintain such boiler and machinery insurance as may be required by the Contract Documents or by law. This insurance shall include the interests of the Owner, the Architect, the Construction Manager, the Contractor, Subcontractors and sub-subcontractors in the Work.
- 11.3.3 Any loss insured under Subparagraph 11.3.1 is to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear, subject to the requirements of any applicable mortgagee clause and of Subparagraph 11.3.8. The Contractor shall pay each Subcontractor a just share of any insurance moneys received by the Contractor, and by appropriate agreement, written where legally required for validity, shall require each Subcontractor to make payments to their Sub-subcontractors in similar manner.
- 11.3.4 The Construction Manager shall file a copy of all policies with the Owner and all Contractors before an exposure to loss may occur.
- 11.3.5 The Owner and the Contractor waive all rights against (1) each other and the Subcontractors, Sub-subcontractors, agents and employees of each other, and (2) the Architect, the Construction Manager and separate contractors, if any, and their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other perils to the extent covered by insurance obtained pursuant to this Paragraph 11.3 or any other property insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance held by the Owner as trustee. The foregoing waiver afforded the Architect, the Construction Manager, their agents and employees shall not extend to the liability imposed by Subparagraph 3.18.3. The Owner or the Contractor, as appropriate, shall require of the Architect, the Construction Manager, separate contractors, Subcontractors and Sub-subcontractors by appropriate agreements, written where legally required for validity, similar waivers each in favor of all other parties enumerated in this Subparagraph 11.3.6.
- 11.3.6 If required in writing by any party in interest, the Owner as trustee shall, upon the occurrence of an insured loss, give bond for the proper performance of the Owner's duties. The Owner shall deposit in a separate account any money so received, and shall distribute it in accordance with such agreement as the parties in interest may reach, or in accordance with an award by arbitration in which case the procedure shall be as provided in Paragraph 4.9. If after such loss no other special agreement is made, replacement of damaged Work shall be covered by an appropriate Change Order.
- 11.3.7 The Owner, as trustee, shall have power to adjust and settle any loss with the insurers, unless one of the parties in interest shall object, in writing within five days after the occurrence of loss, to the Owner's exercise of this power, and if such objection be made, arbitrators shall be chosen as provided in Paragraph 4.9. The Owner as trustee shall, in that case, make settlement with the insurers in accordance with the directors of such arbitrators. If distribution of the insurance proceeds by arbitration is required, the arbitrators will direct such distribution.

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- 11.3.8 If the Owner finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy shall not commence prior to a time mutually agreed to by the Owner and the Contractor and to which the insurance company or insurance companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled or lapsed on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

Modify Subparagraph 11.3.9 as follows:

Delete the end of the third full sentence beginning where the words "an arbitration award_" and add "the outcome in litigation".

Modify Subparagraph 11.3.10 as follows:

The Owner as fiduciary shall have power to adjust and settle a loss with insurers.

Delete Subparagraph 11.3.11.

Add Subparagraph 11.3.12 as set forth below:

- 11.3.12 Rebuilding, replacement or repair after any loss shall be performed promptly by the Contractor without awaiting the collection of the proceeds of insurance or the determination of the distribution thereof. The occurrence of a loss by fire or other casualty shall in no wise relieve the Contractor from the responsibility of completing his portion of the work in accordance with the Contract.

PARAGRAPH 11.4 PERFORMANCE BOND AND PAYMENT BOND

Add the following subparagraphs:

- 11.4.3 Prior to the execution of the contract, the contractor must deliver to the Owner an executed performance bond in the amount of 100% of the accepted bid as security for the faithful performance of his contract and include the one year guarantee; and an executed labor and material payment bond in the amount of 100% of the accepted bid as security for the payment of all persons performing labor or furnishing materials in connection therewith and conditioned that the contractor shall well and faithfully pay all daily labor employed by him for this contract in full once each week. Performance and payment bond may be in a combined form. The bonding company's standard forms are acceptable provided all coverage requirements are included, Consent of Surety must be included.
- 11.4.4 Bonds are to be in favor of the Owner and shall be paid for by the contractor and furnished by a surety company licensed in the State of Delaware. The Owner has the right to demand proof that the parties signing the bonds are duly authorized to do so.

PARAGRAPH 12.2 CORRECTION OF WORK

Add Subparagraph 12.2.1.1 as set forth below.

- 12.2.1.1 Work that is rejected or fails to conform to the requirements of the Contract Documents, that requires any review, research, recommendation, meetings or direction by

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the Architect, Construction Manager or any of his consultants in order to substantiate same or to approve remedies or alternate solution will be subject to Paragraph 12.1.1. The Architect and Construction Manager will be compensated for such additional work at standard prevailing rates by the Owner. The Owner will duly backcharge the Contractor for such additional costs and deduct same from retainage or Application for Payment.

Modify Subparagraph 12.2.2 as set forth below:

12.2.2 Add the following to the existing Paragraph:

Nothing contained in this paragraph shall decrease the responsibility set forth in the Performance Bond.

PARAGRAPH 14.2 TERMINATION BY THE OWNER FOR CAUSE

Modify Subparagraph 14.2.1.1 and 14.2.1.3 as set forth below:

Delete the word "persistently".

Modify Subparagraph 14.2.1.4 as set forth below:

Delete the word "substantial".

Modify Subparagraph 14.2.2 as follows:

When any of the above reasons exist, the Owner, after consultation with the Construction Manager, and upon certification by the Architect that cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner terminate employment of the Contractor and may:

- .1 Take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor.
- .2 Accept assignment of subcontracts pursuant to Paragraph 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient.

ADDITIONAL ARTICLES AND CONDITIONS

ARTICLE 15 - PREFERENCE FOR DELAWARE LABOR

15.1 The Contractor shall comply with the following provisions of Delaware Code, Title 29, Chapter 69, Section 6910:

In the construction of all public works for the State or any political subdivision or by persons contracting with the State or any political subdivision thereof, preference in employment of laborers, workmen or mechanics, shall be given to bona fide legal citizens of the State who have established citizenship by residence of at least 90 days in the State. Each public works contract for the construction of public works for the State or any political subdivision thereof shall contain a stipulation that any person, company, or corporation who violates this section shall pay a penalty to the Secretary of Finance equal to the amount of compensation paid to any person in violation of this section.

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ARTICLE 16 - LICENSE AND TAX REQUIREMENTS

- 16.1 Each Contractor and subcontractor shall be licensed to do business in the State of Delaware and shall pay all fees and taxes due under State laws. In conformance with Section 2503, Chapter 25, Title 30, Delaware Code, the Contractor shall furnish the State Tax Department, within 10 days after award of contract, a statement of the total values of each contract and subcontract, together with the names and addresses of the contracting parties. The Contractor, before the payment of any award or amount payable to any Contractor or subcontractor not a resident of Delaware, shall ascertain from said non-resident Contractor or subcontractor and/or the State Tax Department, whether he has obtained a license and satisfied his liability paid by the non-resident Contractor or subcontractor, the Contractor shall deduct from the award the amount payable to said non-resident contractor or subcontractor the amount of said license liability and shall pay same to the State Tax Department within 10 days after final payment and settlement with the non-resident Contractor or subcontractor.
- 16.2 Taxes: The Contractor shall pay all sales, consumer, use and other taxes required by law.

ARTICLE 17 - PREVAILING DELAWARE WAGE RATES

- 17.1 In accordance with Delaware Code, Title 29, Chapter 69, Section 6912, all laborers and mechanics of the Contractor and all subcontractors employed to perform work directly upon the site of the work shall be paid unconditionally and not less often than once a week and without subsequent deduction or rebate on any account the full amounts accrued at the time of payment computed at wage rates not less than those determined by the Division of Industrial Affairs, Department of Labor, State of Delaware, as the prevailing rates in this area.
- 17.2 This approved scale of wages must be posted by the Contractor in a prominent and easily accessible place at the site of the work.
- 17.3 It is further stipulated that there may be withheld from the Contractor such accrued payment as may be considered necessary by the contracting officer to pay laborers and mechanics employed by the Contractor or any subcontractors on the work the difference between the rates of wages required and the rate of wages received by such laborers and mechanics and not refunded to the Contractor, subcontractor or their agents.
- 17.4 Where wage rates are published in this Manual they are issued by the State Department of Labor on the date indicated and are included for the convenience of Bidders. The Owner, the Architect, and the Construction Manager, accept no responsibility for the accuracy or applicability of any rates included herein. The actual wage rate determinations which will apply to the work will be those in effect on the first day of public advertisement for bids as determined by the State Department of Labor. It will be the responsibility of each bidder to contact the State Department of Labor and to incorporate these rates in his bid.
- 17.5 "In accordance with Delaware Code, Title 29, Section 6912, as amended July 5, 1994, contractors shall furnish sworn payroll information to the Department of Labor on a weekly basis for each contract which exceeds \$15,000 for renovation work and \$100,000 for new construction. The construction contract amount is based on a cumulative total of all contracts bid for a specific project. Payroll forms for submission may be obtained from the Department of Labor."

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17.5.1 A Payroll Report, available from the Department of Labor (sample attached)
is to be used to provide this information.

END OF DOCUMENT 00900

